



FACT PATTERN: State of New Jersey v. Otis

Based on the book *Because of Winn Dixie* by Kate DiCamillo

It is the Year 2017. Otis is the manager of a new franchise of Gertrude's Pets in Haddonfield, New Jersey. Otis still has a magic touch with the animals. India Opal Buloni also moved to New Jersey (indeed, much of the town of Noami, Florida has moved up north) and is still working in the store, but is not on this day because she is in school. Otis takes care of Winn Dixie when Opal is in school and the Pastor is busy.

Otis has continued to routinely let the animals out of their cages in the shop because he feels sorry for them being locked up all the time. The day of the incident, Otis freed the animals and was preparing to play some music for them when a thunder storm hit. Just then, shop-owner Gertrude came into the store. When Gertrude opened the door, Winn Dixie flew out the door scared by the thunder and all of the animals raced out of the store after him. The animals all chased down to the local elementary where Opal was in class but Winn Dixie and the other animals just ran around the school because all of the doors were shut.

Although most people in Otis' position would have panicked, Otis remained calm, reached for his guitar, walked down to the school and started playing his music on the sidewalk outside the school. He played "Colors of the Wind", a song that entertained both the animals outside and the children watching at the windows. The schoolchildren and animals in the street were dancing and happy as a result of his music.

Several of the townspeople living near the school complained to the police about the noise. The school principal was the first to call the police. When the police arrived, they asked Otis to stop singing. Otis refused, declaring he had a First Amendment right to freedom of speech including the right to sing. He also told the police that his singing would enable him to round up the animals and return them safely to their cages. He told them that the music was the only way he had been able to calm them down in the past and get them back into their cages. Because Otis continued to play his music, the police arrested him, and charged him with breach of the peace. The police had waited to arrest him until all of the animals were back in their cages in the shop.

Otis is now on trial for disturbing the peace. *The question to be decided today: Was Otis disturbing the peace?* Disturbing the peace, which is sometimes referred to as breach of the peace, is an offense that is charged if behavior or verbal acts interfere, threaten or jeopardize a person's right to tranquility.

Disturbing the peace refers to words or actions which can ruin the relative peace and quiet of a neighborhood or other public place. Among the defenses of disturbing the peace is that the noise was not disruptive or that it was made for a good purpose. The prosecution will try to prove that the noise was disruptive and that it did not meet the 'good purpose' exception to the law. The

defense does not need to present any evidence since our system of justice is based on the idea that everyone is innocent until found guilty. However, Otis' lawyers will try to prove that the noise was not disruptive or it was for a good purpose.

Mock Trial Script

- Court Clerk:** All rise. The Court of _____ is now in session.
- Judge:** You may be seated. Today we are going to hear the case of the State of New Jersey versus Otis. Prosecution, are you ready?
- Prosecution:** (standing) We are, Your Honor.
- Judge:** Is the Defense ready?
- Defense:** (standing) We are, Your Honor.
- Judge:** Prosecution, you may proceed with your Opening Statement.
- Prosecution:** Your Honor and Ladies and Gentlemen of the Jury, we are here today to prove that Otis is guilty of disturbing the peace by loudly playing music outside of a local elementary school and within a community.
- Gertrude, the shop owner, will tell us that Otis works at the store and he often plays music for the animals to calm them down during a thunderstorm. She will tell us that on this day, she opened the door of her store without knowing that she was letting the animals run free, which is why they were able to escape.
- Now the community member will testify that he/she was the first to see the animals racing to the school, which began the ruckus at the school. He/She will tell us that he/she lives nearby and witnessed the disturbance within the neighborhood.
- Then the Principal will tell us that he/she heard the music during a school assembly and discovered that Otis was playing the music. He/She will tell us that it was disturbing the teachers and students during the school day.
- Finally, we will hear from the police officer who arrived at the scene. He/She will tell us that he/she tried to tell Otis to stop and that he/she will catch the animals, but Otis wouldn't budge. Thank you.
- Judge:** Defense you may make your opening statement.
- Defense:** Your Honor and Ladies and Gentlemen of the Jury, we are here today to prove that Otis is not guilty of disturbing the peace. The music was played for a good reason--so the animals would return and so they

wouldn't cause more chaos. Otis didn't disturb the peace because the song was peaceful and quiet, and he just wanted the animals to be calm.

India Opal will tell us that she was at the school and in the assembly. She will tell us that it wasn't loud or crazy and she, nor any of the other kids, were distracted at the assembly. She will tell us that she knows that is what Otis does to calm the animals. It was less disturbing than loud animals. It was less disturbing than horns honking and people yelling about wild animals. It was done for a good reason. He was a good person.

Mr. Buloni, the preacher, will testify that he knows that the animals like the music and that they don't normally run away. He will tell us that Otis is a good person. He will tell us that the thunder caused the chaos and the animals are calmed by the music. He will tell us that the animals were just following Winn Dixie because she has a fear of thunder.

Franny Block will tell us that Otis didn't mean to disturb the peace and he wanted to help the animals get back into their cages peacefully. She's seen him successfully do it before.

Finally, we will hear from Otis, who will tell us his story which is that he had no intent to disturb the peace and he has successfully calmed the animals down using music before. He was trying to do this calmly and without any disturbance. Thank you.

- Judge:** Prosecution, please call your first witness.
- Prosecution:** The Prosecution calls Officer Smith to the stand.
- Court Clerk:** Please stand and raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?
- Police Officer:** I do.
- Court Clerk:** You may be seated.
- Prosecution:** Would you please tell the Court what your name is?
- Police Officer:** My name is _____.
- Prosecution:** What do you do for a living?
- Police Officer:** I am a police officer for the Haddonfield community.

Prosecution: What did the Principal say to you when he called and complained?

Police Officer: He said that there was a man who was loudly playing music right outside of the school. He mentioned that the music was so loud that it interfered with the school's assembly.

Prosecution: What did you see when you arrived at the scene?

Police Officer: I saw Otis, standing on the sidewalk outside of the school. He was playing his guitar while animals were surrounding him. There were many community members gathering outside to see what was going on.

Prosecution: Did Otis tell you why he was playing the guitar?

Police Officer: He said that the animals were frightened from the thunderstorm and that the only way to calm them down was to play music for them.

Prosecution: How did you ask Otis to stop playing Music? What did you say to him?

Police Officer: I told Otis that there have been complaints from the school that his music was disturbing their learning and that he needed to stop playing his music. I also mentioned that his music was interfering with the local community members who were at home at the time.

Prosecution: How long were you trying to tell Otis to stop?

Police Officer: We were arguing for quite some time, maybe 15-20 minutes. Otis would not stop playing his music.

Prosecution: Did you need to request backup?

Police Officer: I did request backup. Between Otis arguing with me, the animals who were on the loose, and angry community members, there was too much going on for me to handle the situation on my own.

Prosecution: We have no further questions for this witness, Your Honor.

Judge: Defense, you may question this witness.

Defense: Was the music calm?

Police Officer: Yes.

Defense: Were you actually there when the incident originally happened?

Police Officer: No.

Defense: Isn't it true that after you arrived on the scene Otis kept playing his music for some amount of time?

Police Officer: Yes. He said he was trying to calm the animals.

Defense: Were you there the whole time?

Police Officer: I was there for most of the time.

Defense: Did anybody get hurt?

Police Officer: No, no one got hurt.

Defense: Was Otis screaming?

Police Officer: He did start yelling back at me after I asked him several times to stop playing his music.

Defense: Was Otis flailing his arms?

Police Officer: No he was not.

Defense: Was Otis running up and down the street?

Police Officer: He was running along with the animals.

Defense: We have no further questions of this witness, Your Honor.

Judge: Police Officer _____, you may step down.

Judge: Prosecution, you may call your next witness.

Prosecution: The Prosecution calls _____, Community Member, to the stand.

Court Clerk: Please stand and raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

CM: I do.

Court Clerk: You may be seated.

Prosecution: Would you please state your name?

CM: I am _____.

Prosecution: What do you do?

CM: I am a website developer. I am a parent of a school-aged child in the Haddonfield community.

Prosecution: Do you live near the school?

CM: Yes, I live right next to the school.

Prosecution: What were you doing at the time of the incident?

CM: I was working from home.

Prosecution: Was the music distracting?

CM: Yes, the music was very distracting. I could hardly concentrate on my work because the music was so loud.

Prosecution: Did a lot of other community members come out of their houses? Was anyone else upset about this disturbance?

CM: Yes, a lot of people came outside to see what was going on. Many of my neighbors were also upset with the loud noise.

Prosecution: Did you ask Otis to stop playing his guitar? Did anyone else in the community ask Otis to stop playing music?

CM: I did not ask Otis to stop playing his guitar, but one of my neighbors asked him. He did not stop.

Prosecution: Do you have a child that attends the school? If so, did your child complain?

CM: I do. My son attends the school and mentioned that he could hear the music from inside of the school during the Community Meeting.

Prosecution: Did you expect something like this to happen?

CM: Not at all. We live in a very peaceful neighborhood and community.

Prosecution: We have no further questions for this witness, Your Honor.

Judge: Defense, you may question this witness.

Defense: Isn't it true that when you saw him playing the guitar, you saw the animals gather round and calm down?

CM: Yes, that is correct.

Defense: Did you ask Otis to stop playing before calling the police?

CM: Yes, I did ask him to stop.

Judge: _____, you may step down.

Judge: Prosecution, you may call your next witness.

Prosecution: The Prosecution calls Principal _____ to the stand.

Court Clerk: _____, please stand and raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Principal: I do.

Court Clerk: You may be seated.

Prosecution: What is your name?

Principal: My name is _____.

Prosecution: What do you do?

Principal: I am the principal at Elizabeth Haddon Elementary School.

Prosecution: What was the school doing at the time of the incidents?

Principal: We were having a Community Meeting. It is an assembly where the whole school gathers and shares what we have been learning.

Prosecution: Where was the assembly?

Principal: It was in our school's APR.

Prosecution: How long did this go on?

Principal: The Community Meeting lasted about an hour. We heard the music for at least 45 minutes.

Prosecution: How loud was the music?

Principal: It was very loud. We were able to hear the music from where we were in the APR.

Prosecution: What type of music was Otis playing?

Principal: He was playing the song, "Colors of the Wind."

Prosecution: How did this affect the school assembly and the students?

Principal: It was hard for the presenters to talk over the music and for the rest of the students to listen and understand what was being said at the Community Meeting. Everyone was getting frustrated because no one knew what was going on.

Prosecution: Did you have to stop the assembly?

Principal: Yes. The music was so distracting that the students could no longer hear and focus on the Community Meeting.

Prosecution: Why did you call the police?

Principal: We had asked Otis to stop playing music because it was disrupting our school activities. He did not listen and continued playing music. I had no other choice.

Prosecution: We have no further questions of this witness, Your Honor.

Judge: Defense, you may question this witness.

Defense: Did you stop the assembly?

Principal: No. But it may as well have been stopped because students weren't paying attention as they were distracted by the chaos outside.

Defense: This was so disturbing, but you didn't go outside and ask him to stop?

Principal: No. I wasn't able to leave the community meeting to ask him to stop.

Defense: Were the kids enjoying the music?

Principal: Some of them enjoyed the music. Most students seemed annoyed because it was so loud.

Defense: Did anybody get hurt?

Principal: Not that I am aware of.

Defense: Do you play music during assemblies?

Principal: Only when it's needed and appropriate.

Defense: We have no further questions for this witness, Your Honor.

Judge: Principal, you may step down. Prosecution you may call your next witness.

Prosecution: We call Gertrude to the stand.

Court Clerk: Miss Gertrude, please stand and raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Gertrude: I do.

Court Clerk: You may be seated.

Prosecution: What is your name?

Gertrude: My name is Gertrude.

Prosecution: What do you do?

Gertrude: I own the local pet shop where the animals reside.

Prosecution: What were you doing at the time of the incident?

Gertrude: I was at my pet shop.

Prosecution: What happened when you came to your store?

Gertrude: When I got to my store, the animals were all let out of their cages and running around the store. I opened the door to walk into the store and

Winn-Dixie ran right out the door. The other animals ran after him before I could stop him.

Prosecution: How many animals were out of their cages?

Gertrude: About fifteen animals.

Prosecution: Did you try to run after the pets?

Gertrude: I tried my best, but it was hard. There were a lot of animals and it was storming outside. The animals were very frantic.

Prosecution: Do the animals run out of the store a lot?

Gertrude: They have never run out of the store.

Prosecution: Does Otis play music often?

Gertrude: Yes, he does. He likes to play music.

Prosecution: Does he let the animals out of their cages often?

Gertrude: Yes, he does.

Prosecution: Do you like when he does this?

Gertrude: No, I don't like when Otis lets the animals out of their cages. It causes a lot of chaos in my pet store and it takes a while to get them back in their cages once they are let out.

Prosecution: We have no further questions of this witness your honor, the prosecution rests.

Judge: Defense you may cross-examine.

Defense: Has Otis ever played to the animals before?

Gertrude: Yes, he has.

Defense: Does music calm the animals down?

Gertrude: Yes.

Defense: Did you know Winn Dixie has a pathological fear of thunderstorms?

Gertrude: Yes, Opal has mentioned it before.

Defense: Isn't it true that Otis has let the animals out of their cages before?

Gertrude: Yes, that is true.

Defense: Are all the animals safe back at the store?

Gertrude: Yes, they are now.

Defense: Thank you – no further questions your Honor.

Judge: You may step down Gertrude. Defense, you may call your first witness.

Defense: Your Honor, we call Otis to the stand.

Court Clerk: Otis, please stand and raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Otis: I do.

Court Clerk: You may be seated.

Defense: What is your name?

Otis: My name is Otis.

Defense: What do you do for a living?

Otis: I work at Gertrude's Pet Store.

Defense: Is it true that you play music to calm the animals down?

Otis: Yes.

Defense: Have you ever played music in public?

Otis: Yes. The school kids and their families often stay later at the pet store to hear me play.

Defense: Have you ever been arrested because of your music?

Otis: Yes.

Defense: Would you have been playing music if the animals didn't get out?

Otis: Definitely. I would have probably played music in the store to calm them during the storm.

Defense: Thank you. We have no further questions of this witness, Your Honor.

Judge: Prosecution, you may question this witness.

Prosecution: Do you consider yourself to be a musician?

Otis: Yes.

Prosecution: Have you ever played music on the street before?

Otis: Yes.

Prosecution: Were you asked to stop then?

Otis: Yes.

Prosecution: Did you or did you not promise to not play music on the street again?

Otis: I did.

Prosecution: Did anyone ask you to stop playing music?

Otis: No.

Prosecution: Did you or did you not play music on school property?

Otis: Yes, I did, but it was because I was trying to gather the animals and to avoid any other chaos in the community. I did it for a good reason. I was worried about the animals.

Prosecution: Isn't it true that there are signs that say "No Trespassing" around the school?

Otis: I'm not sure.

Prosecution: Is Gertrude's Pet store close to the school?

Otis: Kind of.. It's on King's Highway which is two streets over from Redman Avenue where the school is.

Prosecution: Have there been complaints from the community about your music in the store?

Otis: Never.

Prosecution: Thank you – We have no further questions from this witness your honor.

Judge: Defense you may call your next witness.

Defense: We call Franny Block to the stand.

Court Clerk: Ms. Block, please stand and raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Franny Block: I do.

Court Clerk: You may be seated.

Defense: Is Otis a nice guy?

Franny Block: Yes! He's the nicest guy I've ever met! He would never want to disturb the peace! This is crazy that he's on trial.

Defense: How long have you known Otis?

Franny Block: Almost my whole life. Well, really, for his whole life because I'm older than him.

Defense: Would Otis ever disturb the peace of purpose?

Franny Block: Never! I told you.. This is crazy! He was just trying to help!

Defense: Do you think Otis is a bad guy?

Franny Block: That's ridiculous. Of course not.

Defense: We have no further questions for this witness, Your Honor.

Judge: Prosecution, you may question the witness.

Prosecution: Do you live near the school?

Franny Block: Yes. I always have and I always will. I love seeing those kids every day. Keeps me young.

Prosecution: Were you near the school at the time?

Franny Block: Yes, I was. I was just getting ready to head to my library.

Prosecution: Did you see Otis playing music?

Franny Block: Yes, I did. And I thought, how nice! He's playing music at the school!

Prosecution: Did you ask him to stop?

Franny Block: No! Why would I do that?

Prosecution: Did you see the animals running down the street?

Franny Block: Yes, I did. It was the strangest thing. I thought, is there an adoption event I don't know about in Haddonfield today? I knew something had to be wrong.

Prosecution: Were students complaining to Otis about his playing?

Franny Block: No! The kids love Otis's music!

Prosecution: Did you witness the fight between Otis and the police officer?

Franny Block: I wouldn't call it a fight. Officer _____ was trying to make sense of the situation and he wasn't listening to Otis. I found out later that the animals got out of the pet store because Winn Dixie has a pathological fear of thunder and when it thundered he ran out. Otis was helping; he's always helping. This community would be a disaster without him.

Defense: Your Honor, Defense calls India Opal to the stand.

Court Clerk: India, please stand and raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

India Opal: I do.

Court Clerk: You may be seated.

Defense: What is your name?

India Opal: I am India Opal.

Defense: What do you do for a living?

India Opal: I am a student.

Defense: Where were you the morning the animals got out?

India Opal: I was at the Community Meeting in the APR.

Defense: What were you talking about in the Assembly? Was it important?

India Opal: Mr./Ms. _____ (principal) was handing out the Word of the Month Awards to students. It's not that important. Everyone gets an award eventually.

Defense: What was it like before the animals got out?

India Opal: Just a normal day. It looked like rain though and I was worried about it thundering and Winn Dixie being scared at the pet store, but I knew Otis was there and he usually plays music to calm the animals down so I wasn't *that* worried.

Defense: What was it like after the animals got out?

India Opal: It was kind of scary! I saw the animals running around and like I said, I was already scared for Winn Dixie, and so then I saw them running around like crazy and I got REALLY worried. Then, I saw Otis with his guitar and I knew it would all be okay. The other kids thought it was funny but then when Otis started playing music, we all relaxed and listened because we love Otis's music.

Defense: How loud was the music?

India Opal: Regular volume.

Defense: We have no further questions of this witness, Your Honor.

Judge: Prosecution, you may question this witness.

Prosecution: Are you friends with Otis?

India Opal: Yup! Best friends!

Prosecution: Do you like when he plays music?

India Opal: I love it! We all do! He's so good!

Prosecution: Were you able to hear Otis playing music while you were in the assembly?

India Opal: Yes. I'm glad too because if I hadn't, I would have been scared for the animals.

Prosecution: Was it distracting?

India Opal: Well... yes, but for a good reason.

Prosecution: Did the music distract any other students?

India Opal: Oh yeah.. When you put that many kids in one place it doesn't take long for them to get distracted.

Prosecution: Was this taking time away from learning and the assembly?

India Opal: I don't think so. But you have to ask our principal.

Prosecution: Did you know that it was Otis playing his guitar?

India Opal: Yes. I'm glad it was him.

Prosecution: Did you see the animals running down the street?

India Opal: Yes.

Prosecution: When Otis plays music in the pet store, does it distract you from your schoolwork?

India Opal: No. I go there after I'm done my homework.

Prosecution: Thank you, Your Honor. We have no further questions.

Judge: India Opal, you may step down.

Defense, you may call your next witness.

Defense: The Defense calls Preacher Buloni to the stand.

Court Clerk: Mr. Buloni, please stand and raise your right hand. Do you promise to tell the truth, the whole truth, and nothing but the truth?

Preacher: I do.

Court Clerk: You may be seated.

Defense: Would you please tell the Court your name?

Preacher: My name is Mr. Buloni.

Defense: What do you do?

Preacher: I'm a preacher in Haddonfield.

Defense: Is Otis a nice guy?

Preacher: Great guy in my opinion.

Defense: How long have you known Otis?

Preacher: A couple years.

Defense: Have you seen Otis play his guitar to the animals?

Preacher: Yes. He's great; He's got a way with that guitar he does. Great musician.

Defense: Does your daughter trust Otis?

Preacher: Oh yes. Very much so. As do I.

Defense: Wouldn't you agree that Otis would not disturb the peace of purpose?

Preacher: Absolutely. He was doing what he knew in his heart was best for the animals and our community. He's a stand-up guy.

Defense: Do you believe that Otis was trying to stop the animals from disturbing the peace?

Preacher: Yes. His intent was honest and good.

Defense: We have no further questions of this witness.
The Defense rests its case, Your Honor.

Judge: Prosecution, you may question this witness.

Prosecution: Were you near the school at the time?

Preacher: Yes. I live very near the school.

Prosecution: Did you see the animals running down the street?

Preacher: No. Opal had to fill me in about this whole situation when she got home.

Prosecution: Do you think it was necessary for Otis to be playing music outside of the school?

Preacher: Well, yes.

Prosecution: Do you or do you not agree that a child's education is important?

Preacher: I agree.

Prosecution: Do you agree that your daughter should be listening to music instead of listening to the assembly?

Preacher: Generally, no. But when the reason allows for a teachable moment about caring, honesty and being helpful, that's okay with me.

Prosecution: If you were near the school, would you have asked Otis to stop playing music or let it proceed?

Preacher: I would have let it proceed and probably helped him, though I'm not very good.

Prosecution: When Otis plays music in the pet store, does it distract India Opal from her schoolwork?

Preacher: It used to, but now she goes there after she does her homework.

Prosecution: After this incident, do you approve of your daughter's friendship with Otis?

Preacher: Yes. Yes, indeed. What kind of parent wouldn't?

Prosecution: We have no further questions for this witness, Your Honor.

Judge: Mr. Buloni, you may step down.

Defense, you may make your Closing Statement.

Defense: Thank you, your Honor. We have shown today that Otis did not disturb the peace. Even if you think that he did, we have shown that he did so for a good reason, to contain the animals that were causing chaos, and that would have continued to cause chaos had he not played his music. Nevertheless, people enjoyed Otis's music, and it was not disruptive. The fact that people stopped to listen to his music only shows that it was enjoyed by many. With the facts and witnesses in front of you today, it is clear that Otis is not guilty of disturbing the peace, and that he played the music for good reason, in fact Otis helped restore peace from the escaped animals.

Judge: Prosecution, you may give your Closing Arguments.

Prosecution: Thank you, your Honor. Otis's music caused a disturbance to the neighborhood. You have heard from witnesses that they were unable to focus with all the noise he was creating. The principal told you that an entire school assembly was stopped from proceeding because of the music. Otis was asked to stop by a police officer and did not. Otis continued to play his music in disregard of those around him. No matter his goal, the witnesses have shown you that it is beyond a reasonable doubt that Otis disturbed the peace that day.

Judge: Jury, now it is time for you to deliberate on this issue. Please think about everything you have heard during the trial. Ladies and Gentlemen of the Jury, you are the only judges of whether the witnesses are believable and telling the truth or not. As you decide this case, you should pay attention to how the witnesses looked and acted when they were testifying, to what they said, and to whether different witnesses said things that were the opposite of one another. You should pay attention to all the evidence that shows the witness is credible, and you should pay attention to whether a witness might have reason to say what he/she did even though it might not be the truth. It is your job to decide if the prosecutor has proven beyond a reasonable doubt that Otis has disturbed the peace. If you all think that the Prosecutor has, you should find Otis guilty. If you feel that the Prosecutor has not proven its case beyond a reasonable doubt, then you must find Otis not guilty. The Defendant has been charged with disturbing the peace. To find the Defendant guilty of this offense, you must find that all of the following elements have been proven beyond a reasonable doubt;

- defendant intended to cause "public inconvenience, annoyance or alarm,"
- disregarded the risk of inconveniencing, annoying, or upsetting others. Under this statute, "public"

The jury may be excused to begin their deliberations.